

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JO ANNE SOULE,

Plaintiff,

Case No. 2:18-cv-02239-GMN-GWF

V.

P.F. CHANG'S CHINA BISTRO, INC.,

Defendant.

ORDER

12 This matter is before the Court on Plaintiff's Memorandum of Attorney's Fees and Costs
13 (ECF No. 21), filed on June 24, 2019. Defendant filed its Opposition (ECF No. 22) on July 16,
14 2019.

BACKGROUND

16 On May 15, 2019, Plaintiff filed her Motion to Compel (ECF No. 14) and Defendant filed
17 its Response (ECF No. 17) on May 28, 2019. Plaintiff filed her Reply (ECF No. 18) on May 31,
18 2019. The Court conducted a hearing in this matter on June 7, 2019. The Court found that good
19 cause was not shown why Defendant's responses were not timely served or why objections
20 should be allowed. The Court granted Plaintiff's request for attorney's fees and costs in
21 preparing and filing her motion to compel and set a briefing schedule for Plaintiff's application
22 for an award of attorney's fees and costs.

DISCUSSION

The Supreme Court has held that reasonable attorney fees must “be calculated according to the prevailing market rates in the relevant community,” considering the fees charged by “lawyers of reasonably comparable skill, experience, and reputation.” *Blum v. Stenson*, 465 U.S. 886, 895-96 n. 11, 104 S.Ct. 1541 (1984). Courts typically use a two-step process when determining fee awards. *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000). First, the

1 Court must calculate the lodestar amount “by taking the number of hours reasonably expended on
2 the litigation and multiplying it by a reasonable hourly rate.” *Id.* Furthermore, other factors should
3 be taken into consideration such as special skill, experience of counsel, and the results obtained.
4 *Morales v. City of San Rafael*, 96 F.3d 359, 364 n. 9 (9th Cir. 1996). “The party seeking an award
5 of fees should submit evidence supporting the hours worked and rates claimed . . . [w]here the
6 documentation of hours is inadequate, the district court may reduce the award accordingly.”
7 *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). Second, the Court “may adjust the lodestar, [only
8 on rare and exceptional occasions], upward or downward using a multiplier based on factors not
9 subsumed in the initial calculation of the lodestar.” *Van Gerwen v. Guarantee Mut. Life Co.*, 214
10 F.3d 1041, 1045 (9th Cir. 2000).

11 Plaintiff requests attorney’s fees in the amount of \$3,650.00 for work performed in
12 preparing her motion to compel. The amount is based on work performed by Sarah M. Banda,
13 Esq. at an hourly rate of \$500.00. Plaintiff’s counsel’s itemized billing entries show that 7.3
14 hours in attorney labor was spent in preparation for the filing of Plaintiff’s motion to compel.
15 Defendant does not dispute the amount of time spent in attorney labor but argues that counsel’s
16 hourly rate is unreasonable. After reviewing Plaintiff’s counsel’s affidavit and billing entries,
17 the Court finds that 7.3 hours in attorney labor is reasonable. The Court, however, agrees with
18 Defendant that counsel’s hourly rate of \$500.00 is excessive.

19 The party seeking an award of attorneys’ fees bears the burden of establishing the
20 reasonableness of the hourly rates requested. *Camacho v. Bridgeport Fin'l, Inc.*, 523 F.3d 973,
21 980 (9th Cir. 2008)). “To inform and assist the court in the exercise of its discretion, the burden
22 is on the fee applicant to produce satisfactory evidence-in addition to the attorney’s own affidavits-
23 that the requested rates are in line with those prevailing in the community for similar services by
24 lawyers of reasonably comparable skill, experience and reputation.” *Kiessling v. Rader*, 2017 WL
25 1128605, at *3 (D. Nev. Mar. 24, 2017), objections overruled, 2018 WL 1401972 (D. Nev. Mar.
26 20, 2018) (citing *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984)). The Court may also rely on its
27 own familiarity with the rates in the community to analyze those sought in the pending case.
28 *Ingram v. Oroudjian*, 647 F.3d 925, 928 (9th Cir. 2011).

1 There is ample case law establishing that the upper range of the prevailing rates in this
2 District is \$450 for partners and \$250 for experienced associates. *See, e.g., Sinayan v. Luxury*
3 *Suites Int'l, LLC*, 2016 WL 4394484, *4 & n.4 (D. Nev. Aug. 17, 2016) (Navarro, C.J.) (collecting
4 cases). In this case, Plaintiff seeks an hourly rate of \$500.00 for Ms. Banda, an attorney who was
5 admitted to the State of Nevada Bar in October 2010 and has practiced in the area of personal
6 injury since being admitted. Plaintiff did not provide rate determinations in other cases for her
7 counsel. The Court finds that \$250.00 is an appropriate hourly rate for Ms. Banda and that Plaintiff
8 should recover attorney's fees for 7.3 hours of attorney labor. As such, the Court awards attorney's
9 fees in the amount of \$1,825.00. Additionally, the Court awards the requested costs in the amount
10 of \$121.50. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Memorandum of Attorney's Fees and Costs
(ECF No. 21) is granted in the reduced amounts stated above.

13 **IT IS FURTHER ORDERED** that Defendant is to make the payment to Plaintiff within
14 30 days of the issuance of this order unless an objection is filed.

15 ||| Dated this 26th day of July, 2019.

George Foley Jr.
GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE